

STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
DIVISION OF FLORIDA CONDOMINIUMS, TIMESHARES, AND MOBILE HOMES

FILED	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	10/24/2018
File #	2018-08614

IN RE: PETITION FOR DECLARATORY STATEMENT

Case No. 2018040197

JENNIFER ALLEGRA, Petitioner
THE TOWERS OF KEY BISCAZYNE, INC.

DS 2018-056

ORDER DENYING PETITION FOR DECLARATORY STATEMENT

The Department of Business and Professional Regulation, Division of Florida Condominiums, Timeshares, and Mobile Homes (Division) issues this Order Denying Petition for Declaratory Statement under section 120.565, Florida Statutes.

PRELIMINARY STATEMENT

On July 31, 2018, the Division received a Petition for Declaratory Statement (Petition) from Jennifer Allegra (Petitioner), seeking a declaratory statement as to whether section 718.113(5), Florida Statutes, takes precedence over section 718.113(2), Florida Statutes, to allow an association to change the glass color of existing condominium windows if those windows are a common element and thus the responsibility of the association.

1. On August 6, 2018, the Division confirmed receipt of the Petition and sent a letter notifying The Towers of Key Biscayne, Inc. Association of the Petition (Association).
2. On August 7, 2018, notice of receipt of the Petition was published in the Florida Administrative Register.
3. On August 14, 2018, the Association filed a notice of appearance.

4. On August 29, 2018, the Association filed a motion to intervene and requested a hearing pursuant to rule 28-105.003, Florida Administrative Code.
5. Petitioner did not request a hearing.

FINDINGS OF FACT

All of the facts presented in the Petition were duly considered, included in the record, and form the basis of this order. The Division takes no position as to the accuracy of the facts and accepts them as submitted by Petitioner for the purposes of issuing this order denying petition for declaratory statement.

1. Petitioner is a unit owner at The Towers of Key Biscayne Condominium.
2. The Towers of Key Biscayne Condominium, Inc. is the condominium "association" as that term is defined in section 718.103, Florida Statutes, responsible for the operation of The Towers of Key Biscayne Condominium.
3. The Association is a not-for-profit corporation.
4. The Association's Declaration of Condominium was recorded on August 16, 1972 in the official records of Miami-Dade County, Florida.
5. The Association has five hundred and thirty-eight units, and one board of directors composed of seven members.
6. Petitioner states that the Association has begun a window replacement project to replace existing bronze-tinted glass windows with missile impact green-tinted glass windows.
7. Petitioner claims that Petitioner must pay the Association a special assessment of twenty-two thousand dollars within the fiscal year for four new windows.

8. Changing the window color from bronze to green will affect the exterior appearance of the condominium, perhaps diminishing the value of Petitioner's unit.
9. Further, if corrective action must be taken, Petitioner may be required to pay increased Association fees or an additional special assessment to rectify the changes.
10. Petitioner states that some of the windows have already been replaced.
11. Petitioner contends that the governing documents of the Association do not provide a procedure for material alterations; therefore section 718.113(2), Florida Statutes, is applicable.
12. According to the Petition, a vote of seventy-five percent of the Association's total voting interest is required before any material alterations or substantial additions take place.
13. Petitioner contends that pursuant to the Association's governing documents, the windows and sliding glass doors are common elements, and therefore, it is the responsibility of the Association to maintain them.
14. Petitioner maintains that the condominium's bronze-tinted sliding glass doors, which match the existing windows, were replaced approximately seven to ten years ago and are impact resistant or hurricane grade.
15. Petitioner claims that the existing windows are the original windows of the building and that each window has hurricane shutters.
16. Petitioner also states that although the current window/hurricane shutter configuration is not up to date with current building regulations, the configuration does not violate the building code, nor has the Association been instructed to change the existing windows by the Village of Key Biscayne.

17. Petitioner claims that on or about October 2017, the Association passed a special assessment in excess of thirteen million dollars for the window replacement project.

18. Petitioner maintains that it was understood by the unit owners that the window glass color would matching the sliding glass door color and that a specification that the new windows would match the sliding glass doors was incorporated into a contract regarding the windows in November 2017.

19. Petitioner states that once some of the windows had been replaced, the membership of the Association had questions and concerns for the Board of Directors regarding the green hue of the windows, which were addressed during a board meeting on June 13, 2018.

20. Petitioner states that when asked why the change to green windows does not constitute a material alteration, an attorney for the Association responded, "Florida Statute 718.113 provides that when you do a change of windows for code compliance, it is not by law considered a material alteration and no vote of membership is required."

21. Petitioner also states that there are windows available that comply with the current building codes that would match the existing windows more closely for less than or equal to the cost of the windows being utilized in this project.

CONCLUSIONS OF LAW

1. The Division has jurisdiction to enter this order pursuant to sections 718.501 and 120.565, Florida Statutes.

2. Section 120.565, Florida Statutes, provides in part:

(1) Any substantially affected person may seek a declaratory statement regarding an agency's opinion as to the

applicability of a statutory provision, or of any rule or order of the agency, as it applies to the petitioner's particular set of circumstances.

(2) The petition seeking a declaratory statement shall state with particularity the petitioner's set of circumstances and shall specify the statutory provision, rule, or order that the petitioner believes may apply to the set of circumstances.

3. Rule 28-105.001, Florida Administrative Code, provides:

A declaratory statement is a means for resolving a controversy or answering questions or doubts concerning the applicability of statutory provisions, rules, or orders over which the agency has authority. A petition for declaratory statement may be used to resolve questions or doubts as to how the statutes, rules, or orders may apply to the petitioner's particular circumstances. A declaratory statement is not the appropriate means for determining the conduct of another person. (Emphasis added).

4. Petitioner has standing to petition for a declaratory statement as a unit owner pursuant to sections 718.103(28) and 120.565, Florida Statutes.

5. Petitioner's question as to whether section 718.113(5), Florida Statutes, takes precedence over section 718.113(2), Florida Statutes, to allow an association to change the glass color of existing condominium windows if those windows are a common element and thus the responsibility of the association is denied for the following reasons:

6. First, the Division is unable to issue a declaratory statement on an issue not within the statutory authority of the Division.

7. "The purpose of the declaratory statement procedure is... 'to enable the public to secure definitive binding advice as to the applicability of agency-enforced law to a particular set of facts.'" Fla. Dep't of Bus. & Prof'l Regulation, Div. of Pari-Mutuel Wagering v. Inv. Corp. of Palm Beach, 747 So. 2d 374, 382 (Fla. 1999) (quoting Patricia

A. Dore, Access to Florida Administrative Proceedings, 13 Fla. St. U. L. Rev. 965, 1052 (1986)); see also ExxonMobil Oil Corp. v. State, Dep't of Agric. & Consumer Servs., 50 So. 3d 755, 757 (Fla. 1st DCA 2010); Citizens v. Fla. PSC, 164 So. 3d 58, 62 (Fla. 1st DCA 2015).

8. Section 718.501(1), Florida Statutes, limits the Division's jurisdiction to "financial issues, elections, and unit owner access to association records" once turnover has occurred.

9. The issue raised by Petitioner is not within the statutory enforcement authority of the Division. The Division is unable to exceed the powers, functions, and duties delegated by the Legislature and issue a response regarding changing the glass color of existing condominium windows.

10. Second, the Division is unable to issue a declaratory statement regarding past conduct. The purpose of a declaratory statement is to allow petitioners to select a proper course of action in advance. *E.g.* Novick v. Dep't of Health, 816 So. 2d 1237, 1240 (Fla. 5th DCA 2002). The facts presented to the Division pertain to window color replacement that has already begun. As such, the Division cannot issue a declaratory statement concerning this matter.

11. Third, the Division is unable to issue a declaratory statement where the Petitioner is attempting to determine the proper course of conduct of the Association.

12. Rule 28-105.001, Florida Administrative Code, provides that "[a] petition for declaratory statement may be used to resolve questions or doubts as to how the statutes, rules, or orders may apply to the petitioner's particular circumstances;" and

that "[a] declaratory statement is not the appropriate means for determining the conduct of another person."

13. Specifically, the purpose of a declaratory statement is to allow a petitioner to select a proper course of action in advance. Novick v. Dep't of Health, Bd. of Med., 816 So. 2d 1237, 1240 (Fla. 5th DCA 2002).

14. Therefore, Petitioner's Petition for Declaratory Statement is properly denied.

15. Accordingly, the Association's Motion to Intervene and request for a hearing are denied as moot.

For the reasons stated above it is hereby:

ORDERED that the Petition for Declaratory Statement is **DENIED**.

[SIGNATURE PAGE TO FOLLOW]

DONE and ORDERED this 23rd day of October 2018, at
Tallahassee, Leon County, Florida.



A handwritten signature in black ink, appearing to read "Kevin Stanfield".

Kevin Stanfield, Director
Department of Business and
Professional Regulation
Division of Florida Condominiums,
Timeshares, and Mobile Homes
2601 Blair Stone Road
Tallahassee, FL 32399-1030

NOTICE OF RIGHT TO APPEAL

THIS FINAL ORDER CONSTITUTES FINAL AGENCY ACTION AND MAY BE APPEALED BY ANY PARTY ADVERSELY AFFECTED PURSUANT TO SECTION 120.68, FLORIDA STATUTES, AND RULE 9.110, FLORIDA RULES OF APPELLATE PROCEDURE, BY FILING A NOTICE OF APPEAL CONFORMING TO THE REQUIREMENTS OF RULE 9.110(c), FLORIDA RULES OF APPELLATE PROCEDURE, BOTH WITH THE APPROPRIATE DISTRICT COURT OF APPEAL ACCOMPANIED BY APPROPRIATE FILING FEES AND WITH THE AGENCY CLERK, 2601 BLAIR STONE ROAD, TALLAHASSEE, FLORIDA 32399-2202; AGC.FILING@MYFLORIDALICENSE.COM; FAX (850) 488-5761, WITHIN THIRTY (30) DAYS OF THE RENDITION OF THIS FINAL ORDER.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail to Jennifer Allegra, 1121 Crandon Blvd., Apt. D504, Key Biscayne, Florida 33149, on this 24th day of October, 2018.

Brandon M. Nichols
Agency Clerk's Office

Copies furnished to:

The Towers of Key Biscayne, Inc.
c/o Donell A. Hicks
DeMahy Labrador Drake Victor Rojas & Cabeza
Douglas Entrance
806 Douglas Road
12th Floor
Coral Gables, Florida 33134
pdemahy@dldlawyers.com

Chevonne Christian
Chief Attorney

FILED
Department of Business and Professional Regulation
Deputy Agency Clerk
CLERK Brandon Nichols
Date 7/31/2018
File #

**FLORIDA DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
DIVISION OF FLORIDA CONDOMINIUMS, TIMESHARES AND MOBILE HOMES**

Docket #2018040197

JENNIFER ALLEGRA

Petitioner.

DS 2018-056

**PETITIONER, JENNIFER ALLEGRA, REQUEST FOR DECLARATORY
STATEMENT**

Petitioner, Jennifer Allegra, respectfully submits this Request for Declaratory Statement to the Division of Business and Professional Regulations- Division of Florida Condominiums, Timeshares, and Mobile Homes (hereinafter "DBPR"), and requests the DBPR exercise its jurisdiction over the matter described herein, and further requests that the DBPR provide its official opinion of the application of Section 718.113, Florida Statutes, with emphasis on Section 718.113(5), Florida Statutes to the Petitioner's circumstances, and in support thereof the Petitioner states:

IDENTITY OF THE PETITIONER

1. The Petitioner is Jennifer Allegra (hereinafter "Petitioner") is a co-owner and has established homestead at 1121 Crandon Boulevard, Apt D 504, Key Biscayne, Florida, 33149.
2. 1121 Crandon Boulevard, Apt D 504 is a member unit located in The Towers of Key Biscayne Condominium Association (hereinafter "Association").
3. The Association is a not-for-profit corporation, organized under the laws of the state of Florida. Thus, governed by Chapter 718, Florida Statutes.
4. The Association's Declaration of Condominium was recorded on August 1, 2018.

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1972, in the Official Records of Miami-Dade County, Florida, Recoding Book Number 7850, Page 375. Should the DBPR require a complete and current set of the governing document, Petitioner will immediately email the documents to the DBPR.

5. The Association has five hundred and thirty-eight member units, and only one board of directors comprised of seven members.

6. In addition to members that are full time resident owners, a large majority of the units are owned by corporations, tenant occupied, or occupied by owner snowbirds.

7. Petitioner does not have a lobbyist, nor has hired a law firm with lobbyist that are politically connected. Thus, has no insight as to the legislative intent of the interplay between Section 718.113(5), Florida Statutes, and 718.112(2), Florida Statutes.

AGENCY RULE IN CONTROVERSY AND AFFECT ON PETITIONER

8. Petitioner respectfully requests a declaratory statement on the interpretation of Section 718.113(5), Florida Statutes, in consideration of Section 718.113(2), Florida Statutes.

9. Simply put, does Section 718.113(5), Florida Statutes, trump Section 718.113(2), Florida Statutes, wherein the association can palpably or perceivably vary or change the glass color of the existing association windows, in such a manner as to appreciably affect or influence the appearance of the building if the said windows are a common element; thus, the responsibility of the association, and the new windows comply with or exceed the current applicable building code? In an extreme example, replacing existing windows with clear glass, that does not meet or exceed the most current code, with impact resistant windows with orange and green polka-dot glass that meets or exceeds the current code.

10. As set forth below, Petitioner asserts standing because she is substantially affected.

11. Petitioner lives in an association where the Association has embarked on a window replacement project. Association is currently replacing the existing windows with bronze tinted glass with missile impact green tinted glass.
12. Petitioner must pay the Association a special assessment in excess of twenty-two thousand dollars (\$22,000), within the fiscal year for four new windows.
13. Petitioner will be forced to live with and look at the green windows every day.
14. Petitioner purchased the condominium with a certain exterior look and design, and should the project continue the look of the building will be perceptibly, and palpably changed forever.
15. The value of the Petitioner's asset may diminish.
16. The Petitioner may have to pay increased association fees or an additional assessment to rectify this error in design.
17. Most importantly, the conduct at issue is current and ongoing conduct which may be subject to nonbinding arbitration by the DBPR. Accordingly, the proper understanding and application of the law must be applied to the facts by the arbiter during the arbitration.
18. Should mandatory non-binding arbitration occur, Petitioner is not similarly situated to the Association in terms of a litigation budget. It is commonly understood that when challenging associations, especially large associations with annual budgets of eight million dollars or more, it is a David verses Goliath battle. In fact, associations often push the limits of the law or violate the law because they have the economic advantage of a larger litigation war chest, and the board members have zero personal downside risk. Whereas the individual unit owner personally responsible for his or her legal fees, and is the only party with personal downside risk, which is compounded by the fact that the individual unit owner maybe

responsible for the prevailing parties' legal fees. Moreover, the unit owner is essentially funding both sides of the litigation through paying association fees. As such, should arbitration occur, the Petitioner starts the process at a disadvantage, and is the only party that will incur personal risk.

19. Accordingly, proper interpretation and the intent of the law is paramount for this controversy and any future controversies, as the arbitrator should be making a determination based on applying the law to his or her finding of facts.

20. This issue is currently taking place, only a small percentage of the approximate four-thousand plus windows have been replaced thus far.

21. Moreover, it is well established by the DBPR that the purpose of a declaratory statement is to allow petitioners to select a proper course of action in advance. In the present matter, this would be in advance of the replacement of the more than super majority of the windows, and in advance of mandatory non-binding arbitration.

BACKGROUND

22. The background is not intended to be a complete recitation of the facts. In fact, the facts and evidence are not at issue. The facts associated with the window replacement project as a whole are more complicated than contained herein because the amended specs of the windows were allegedly not given to the Association attorneys who reviewed, and seemingly participated in the drafting of the window contract. Apparently, it was the amended specs were the direct cause of the green window glass. Moreover, the Association attorney referred the Association to the engineer for the project. As such, there are a lot of complicated issues, none of which are pertinent to Petitioner's Request for a Declaratory Statement, as the DBPR does not

have jurisdiction over these complicated contractual issues, and possible breaches of fiduciary duties.

23. The governing documents of the Association do not provide a procedure for material alterations. As such, Section 718.113(2), Florida Statute is applicable. Thus, seventy-five (75%) of the Association's total voting interest is required before any material alterations or substantial additions take place. *See Ex A.*

24. As per the Association's governing documents the windows and sliding doors are a common element. *See Ex. B.* While it is debatable if the replacement of the windows was necessary, the Petitioner does not dispute that it is the responsibility of the association to maintain the common elements.

25. The existing sliding glass doors which were replaced approximately seven to ten years ago, are impact resistant or hurricane grade sliding glass doors. The said doors have a clear bronze tint, assumingly to match the existing windows that have a clear bronze tint.

26. The existing windows, are for the most part the original windows installed at the time the building was constructed. Each window has hurricane shutters. The hurricane shutters were installed sometime following hurricane Andrew.

27. Although the existing window configuration, i.e. the existing windows with shutters do not violate code, meaning the Village of Key Biscayne never instructed the building that it had to change the existing windows; the current window/hurricane shutter configuration is not up to date with the most current building codes.

28. The Association started to discuss the window replacement more than five years ago. Consequently, there was much discussion of the project at open board meetings.

29. On or about October 2017, the Association passed a special assessment in excess

of thirteen million dollars (\$13,000,000) for the window replacement project.

30. Throughout the five years that predated the installation, the membership unequivocally understood that replacement windows would have bronze glass to match the existing sliding glass door glass. In fact, based on a review of the relevant documents, it was clear throughout the entire window selection process that the new windows were supposed to match the existing bronze sliding glass doors. At no point was the membership ever advised that the window glass would be green.

31. The specification that the new windows match the existing sliding glass doors was incorporated into the windows contract executed in November 2017. As such, it came as quite a shock to the entire membership when the first line of windows installed appeared green.

32. In fact, during an Association board of directors meeting held in January 2017, Petitioner asked if the new window glass would match the existing sliding glass door glass and was told that except for a slight variance the new window glass would match the existing sliding glass door glass.

33. On or about June 4, 2018, following some pressure from the membership, caused by the board denying that the windows were green¹, and not being able to give a clear explanation as to why everyone else was able to identify the windows as green, the board of directors agreed to have a board of directors meeting on June 13, 2018. The purpose of the June 13, 2018, meeting was to answer some of the questions and concerns the membership had raised since the windows had been identified as green.

34. On June 13, 2018, the board of directors held a meeting. The meeting was

¹ At the following board of directors meeting the board finally admitted that the windows had a green hue.

essentially conducted by one of the lawyers from the Association's long serving law firm. The engineer who was referred to the Association by the Association's law firm was also in attendance to answer questions from the membership.

35. At the meeting many owners were baffled as to why the green windows were not a material alteration, as the building looked dramatically different in the lines where the green windows were just installed. Most owners wanted to know why a vote of the membership was not taken as the green windows dramatically changed the look of the building, resulting in a material alteration.

36. In fact, one owner, after pointing out what appeared as a contradiction, asked the Association attorney how are the green windows were not a material alteration? The owner stated, we were told the Association was advised by its attorney that Association should not permit the installation of sliding glass doors, where a window currently exists, because the Association's law firm advised that changing from windows to doors is a material alteration²; and we were told that owners were not permitted to have white window frames in lieu of brown window frames because the Association law firm advised that this change would be a material alteration requiring membership vote.

37. In response to the question posed by the owner, asking "why this green window does not constitute a material alteration, as if we changed the color of the frame or changed the design of the windows"; the attorney for the Association stated, "**Florida Statute 718.113, provides that when you do a change of windows for code compliance, it is not by law considered a material alteration and no vote of the membership is required³.**"

² Similarly, this is either another contradiction or violation of the law because approximately eight units were permitted to install sliding glass doors where windows previously existed.

³ If this is in fact the case, any association can embark on a multi-million-dollar window project every time the current code changes, whether or not the building actually needs the new windows, and irrespective if the

38. Although, irrelevant, but to further cloud the issue, on June 22, 2017, the Association sent the membership an email, in relevant part, providing that the Association had the choice to install windows with gray glass, but the "change of glass tint would have resulted in a material alteration."

ISSUE

39. The issue here is the interpretation of a statute. The question is very simple, does Section 718.113(5), Florida Statutes, trump Section 718.113(2), Florida Statutes, wherein the association can perceivably, and palpability change the glass color of the existing windows as long as those windows are a common element; thus, the responsibility of the association, assuming the new windows comply with or exceed the current applicable building code.

40. If it is relevant to the interpretation, please accept as fact there are windows available that comply with required codes and would match or more closely appear to look like the existing windows, for less than or equal the cost.

HEARING

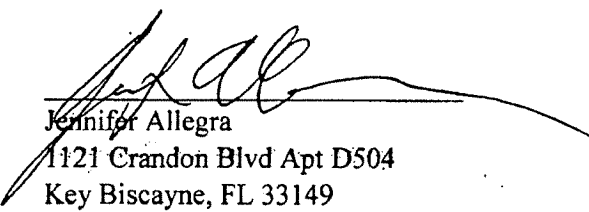
41. A hearing is not requested as the issue is one of interpreting a statute. However, Petitioner does not waive the right to appeal a Final Order.

Respectfully submitted via certified mail, this ^{28th} day of July 2018, in accordance with Chapter 28, Rule 105.002, Florida Administrative Code.

Department of Business and Professional Regulation
Division of Florida Condominiums, Timeshares, and Mobile Homes
2601 Blair Stone Road
Tallahassee, Florida 32399-1030

Certified Mail Number: 7014 1820 0000 2470 9861

memberships wants it. Petitioner asserts that this can lead to abuse and would encourage unnecessary window projects for rouge boards or management teams looking for kickbacks.



Jennifer Allegra

1121 Crandon Blvd Apt D504

Key Biscayne, FL 33149

Phone: 646-391-3737

Email: Allegra.Jennifer@gmail.com

No Fax Number



EXHIBIT
A

BOARD OF DIRECTORS

President	Martin Pinilla
Vice President	Allison Owen
Treasurer	Larry Ainslie
Asst. Treasurer	Robert J. Knecht
Secretary	Norma Blum
Asst. Secretary	Dr. Elsa Dominguez
Director	Judith Rosenblum

1121 Crandon Boulevard, Key Biscayne · Florida 33149
Phone (305) 361-9114 · Fax (305) 361-9331

Joe Maura
General Manager

September 21, 2017

Via Certified Mail Return Receipt Requested, Regular Mail and Email

Paul Allegra
1121 Crandon Boulevard, D-504
Key Biscayne, Florida 33149

Dear Mr. Allegra:

This correspondence serves as the Board of Directors ("Board") response to your written inquiry dated July 24, 2017. The Board has been advised by the Association's legal counsel that Section 718.113(2)(a), Florida Statutes, provides as follows regarding material alterations:

Except as otherwise provided in this section, there shall be no material alteration or substantial additions to the common elements or to real property which is association property, except in a manner provided in the declaration as originally recorded or as amended under the procedures provided therein. If the declaration as originally recorded or as amended under the procedures provided therein does not specify the procedure for approval of material alterations or substantial additions, 75 percent of the total voting interests of the association must approve the alterations or additions. This paragraph is intended to clarify existing law and applies to associations existing on October 1, 2008.

Based upon the above-quoted provision, the approval of 75% of the total voting interests of the Association is required for "material alterations" or "substantial additions" to the common elements or real property which is Association property since the Association has been advised that the Declaration of Condominium does not specify otherwise.

Please note that the Association's legal counsel has advised that what constitutes a "material alteration" or "substantial addition" is not always clear and may ultimately be a question of fact for an arbitrator or trial court. The Association has also been advised that Florida case law and arbitrations have created exceptions to the unit owner approval requirement for material alterations and substantial additions. Accordingly, some alterations and/or additions which may be considered material or substantial may not require unit owner approval.

Sincerely,

For the Board of Directors,
The Towers of Key Biscayne, Inc.

Laws and the Charter of the Association, as same may be lawfully amended from time to time, shall be binding upon all of the Unit Owners and their heirs, personal representatives, successors and assigns.

24. The provisions hereof shall be enforceable, equitable servitudes, and shall run with the land and shall be effective until this Declaration is revoked or terminated.

25. Each unit shall include that part of the building containing the unit which lies within the boundaries of the unit, which boundaries are as follows:

25.1 The upper and the lower boundaries extended to an intersection with the perimeteral boundaries, the upper boundaries being the horizontal plane of the undecorated finished ceiling and the lower boundaries being the horizontal plane of the undecorated finished floor.

25.2 The perimeteral boundaries of the unit shall be the following boundaries extended to an intersection with the upper and lower boundaries:

25.2.1 The exterior boundary walls are the vertical planes of the undecorated finished interior of the walls bounding the unit extended to intersections with each other and with the upper and lower boundaries.

25.2.2 Where a balcony, loggia or terrace serving only the unit being bounded is attached to the building, the vertical boundaries of the apartment shall be extended to include such structures and the fixtures thereon.

25.2.3 Exterior windows and frames, exterior glass-sliding doors and frame and casings are Common Elements.

26. Within six years from the date of recording of this Declaration of Condominium, the Sponsor shall have the right to assign or sell parking spaces designated as Limited Common Elements to particular Units which assignment shall be made by instrument in writing, an executed copy of which shall be delivered to the Association. Upon such assignment the owner of such Unit shall have the exclusive right to the use thereof without separate charge by the Association, although nothing herein contained shall be construed as relieving such owner from any portion of any assessment for Common Expenses made against the Unit as proposed herein, it being the intention hereof that the cost and maintenance and administration of Limited Common Elements shall be included as part of the Common Expense applicable to all Units for purposes of assessment. Upon such assignment the exclusive right of the owner of the Unit to which such assignment is made shall become an appurtenance to said Unit and shall be encumbered by and subject to any mortgage then or thereafter encumbering said

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Unit, and upon the conveyance of or passing of title to the Unit to which such assignment is made, such exclusive right shall pass as an appurtenance thereto in the same manner as the undivided interest in the Common Elements appurtenant to such Unit. No conveyance, encumbrance or passing of title in any manner whatsoever to any exclusive right to use a parking space constituting Limited Common Elements may be made or accomplished separately from the conveyance, encumbrance or passing of title to the Unit to which it is appurtenant, except that the owner of a second parking space, may freely assign or transfer it to the Association, provided that as a condition precedent to the conveyance, assignment or transfer to the Association of this second space, the same shall be released from any mortgage, lien or encumbrance thereon. Whenever the Association shall become the owner of the exclusive right to use any parking space constituting Limited Common Elements, the acquisition of which such exclusive right shall be by written instrument, such exclusive right may be thereafter by written instrument transferred by the Association to any Unit with the same force and

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Department of Business and Professional Regulation
Division of Florida Condominiums, Timeshares, and Mobile Homes
2601 Blair Stone Road
Tallahassee, FL 32399-1030



PLACE STICKER AT TOP OF ENVELOPE
OF THE RETURN ADDRESS, FOLD AT DOTTED LINE

33149	A
ALLEGRA	
1121 CRANDON BLVD	
APT D504	
33149	

